

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3514

IN THE MATTER OF:

Served June 8, 1990

Application of AT ONCE DELIVERY )  
SERVICE, INC., for a Certificate )  
of Public Convenience and Necessity)  
-- Charter and Special Operations )

Case No. AP-90-02

By application filed January 23, 1990, and amended February 23, March 7, and April 17, 1990, At Once Delivery Service, Inc. (At Once or applicant), seeks a certificate of public convenience and necessity authorizing the transportation of passengers, together with mail, express, and baggage in the same vehicles as passengers, in charter operations between points in the Metropolitan District. 1/2/

A public hearing was held on April 17, 1990, pursuant to Order No. 3469, served March 13, 1990, and incorporated herein by reference. One witness testified regarding applicant's daily operations, and three public witnesses were presented. J&B Transportation Company, Inc. (WMATC No. 45); Metro Medicab, Inc. (WMATC No. 46); P&T Transportation Co. (WMATC No. 47); Otis F. Smith trading as Speedy Transportation (WMATC No. 48); Ellis B. Harrison, Sr., trading as Area Transportation Company (WMATC No. 49); Henry L. Epps, Jr. (WMATC No. 51); Damon's Transportation Company, Inc. (WMATC No. 60); William C. Dye trading as W&D Transportation (WMATC No. 61); Battle's Transportation, Inc. (WMATC No. 62); and Ikard Transportation Service, Inc. (WMATC No. 164) (protestants), filed petitions in the nature of protests on March 19, 1990. However, protestants neither appeared at the hearing to cross-examine applicant's witnesses or present evidence in support of their protests, nor did they file briefs in opposition to the application. At hearing applicant requested that any certificate of public convenience and necessity issued to At Once Delivery Service, Inc., include At Once Transportation Service as its trade name.

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1/ To the extent this application could be construed to include transportation solely within the Commonwealth of Virginia, it was dismissed pursuant to the Compact, Title II, Article XII, Section 1(b) by Order No. 3469.

2/ It is noted that At Once originally sought authority herein to transport transportation-disadvantaged passengers in special operations between points in the Metropolitan District and had requested that the charter authority sought, which is described above, be restricted to round trips. The application was amended at hearing to conform to the service applicant, based on its president's testimony, proposes to perform.

### SUMMARY OF EVIDENCE

Ms. Bernadette Medley, president of At Once, testified at hearing. Ms. Medley has 10 years experience as a nurse and currently works part-time in that capacity at a retirement home. She also runs a package delivery service that operates throughout the Metropolitan District. Ms. Medley will serve as applicant's office manager, sales person, and advertising coordinator.

Applicant would conduct the proposed operations using three 29-passenger vehicles. The vehicles would be leased, and At Once's leasing agreement provides for an additional vehicle in the event of a breakdown. The vehicles would be subjected to a daily maintenance regime and a routine maintenance check every 3,000 miles. Major repairs and maintenance would be performed by the leasing company. The vehicles would be garaged in a leased lot in Northwest Washington. Applicant plans to hire three full-time drivers, two part-time drivers, and a receptionist.

The rates for the proposed charter transportation would be \$45 an hour with a five-hour minimum. A discounted rate of \$25 an hour, with a four-hour minimum, or \$65 for a transfer between points in the Metropolitan District would be charged for senior citizen groups. <sup>3/</sup> Applicant's office would be open between 9 a.m. and 5 p.m., Monday through Friday; an answering service would take calls as early as 8 a.m. and as late as 9 p.m., seven days a week. Advanced booking would be required. Ms. Medley voiced concern over the transportation needs of the elderly. She hopes that the discount provided senior citizens will facilitate seniors' ability to visit places and to interact with the general public. The witness plans to instruct drivers personally regarding how to accommodate the transportation needs of older passengers.

Applicant's balance sheet as of December 31, 1989, shows assets of \$18,000 including \$10,000 cash; no liabilities are listed; proprietor's equity is \$18,000. For the six months ended December 31, 1989, At Once had revenues of \$15,480 and operating expenses of \$13,951, including owner's draw but excluding taxes and depreciation. At Once projects \$327,600 revenues and \$292,684.50 expenses during its first year of WMATC operations.

At Once, through Ms. Medley, is familiar with the Compact and the Commission's rules and regulations, including its safety regulations, and intends to comply with them.

Ms. Ruth Burgess testified in support of the proposed operations. Ms. Burgess individually sponsors recreational outings aimed towards but not limited to senior citizens. The outings usually involve trips to shopping centers and eating establishments.

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<sup>3/</sup> This represents applicant's tariff as described at hearing and taking into consideration At Once's amendment relative to charter operations. A different tariff was submitted with the application.

Ms. Burgess requires charter transportation in a 29-passenger vehicle twice a month for trips to shopping centers and general sightseeing points throughout the Metropolitan District. The witness would use applicant's service if made available.

Mr. Sam O'Dennis testified in support of the application on behalf of the Air Force Association (AFA), Andrews Chapter. Mr. O'Dennis is the president of AFA, Andrews Chapter, and was authorized to represent the transportation needs of the chapter. AFA has half a million members nationwide, 2600 of whom are members of the local chapter. The Andrews Chapter sponsors a variety of events throughout the year for which transportation is required. In addition, AFA's annual convention is held in Washington, DC. The witness testified that the local chapter requires transportation between points in the Metropolitan District, on the one hand, and, on the other, Andrews Air Force Base in Prince George's County, MD, approximately four times a year using multiple vehicles. Mr. O'Dennis is in a position to recommend applicant's service to AFA and would do so if this application were granted. Mr. O'Dennis is also a member of the Tuskegee Airmen, the local chapter of which has 300 members. The organization requires transportation between points in the Metropolitan District. Mr. O'Dennis was not authorized to speak officially on behalf of the organization. However, he testified that, as public relations officer, he is in a position to recommend transportation service to the Tuskegee Airmen when needed.

The final witness to testify in support of the application was Mr. Thomas Brown. He was authorized to testify on behalf of The Age of Aquarius, a social club based in Washington, DC. The club sponsors a variety of recreational outings to points throughout the Metropolitan District. The club also sponsors events requiring transportation for senior citizens. Transportation in a 29-passenger vehicle is required approximately five to six times a year, using more than one vehicle in some movements. Mr. Brown would use applicant's service if the authority sought were granted.

#### DISCUSSION AND CONCLUSIONS

This matter is governed by Title II, Article XII, Section 4(b) of the Compact which requires that an applicant for a certificate of public convenience and necessity prove it is fit, willing, and able to perform the proposed transportation properly and to conform to the provisions of the Compact and the Commission's rules, regulations, and requirements thereunder. Section 4(b) further requires that the applicant prove the proposed service is required by the public convenience and necessity. After reviewing the entire record in this case, the Commission finds that At Once has met its statutory burden. Accordingly, the application, as amended, will be granted. Applicant's oral motion to trade as At Once Transportation Service will also be granted.

The Commission finds At Once capable of providing the proposed service. Applicant's president has experience in the transportation field including first-hand knowledge of the maintenance required to

keep vehicles in operation. Ms. Medley's experience working with senior citizens will also be useful in applicant's transportation of older passengers. At Once plans to operate three vehicles, a sufficient number for the proposed service. Each vehicle would be subject to daily inspection and routine maintenance. Applicant has made arrangements for a backup vehicle and performance of major repairs. Applicant's finances, in light of its status as an ongoing concern, indicate adequate resources to implement the proposed operations. At Once, through its president, is familiar with the Compact and the Commission's rules and regulations, including those relating to safety, and is willing to comply with them.

The Commission has relied on the criteria set forth in Pan-American Bus Lines Operation, 1 MCC 190, 203 (1936) and its progeny to determine whether an applicant has satisfied its burden of proof that the public convenience and necessity require the proposed service. The witnesses testified to a need for transportation in charter operations between points in the Metropolitan District as proposed by applicant and to their willingness to use the proposed service if authority were granted.

Based upon the testimony of the witnesses, the application filed by At Once and the documentary evidence submitted in this matter, and in light of the entire circumstances of this particular case, the Commission finds that applicant has proved that the proposed charter service will support a useful public purpose for which there is a demonstrated need, provided that the authorized service is restricted as to vehicle size. At Once did not expressly limit its application in this way. However, the testimony of its operating witness and its public witnesses clearly indicate that a restriction to transportation in vehicles having a manufacturer's designed seating capacity of 29 passengers or less (including the driver) is appropriate, and it will be included in the authority granted herein. Further, it is noted that, although the transportation of passengers' baggage is an ordinary adjunct of charter operations, applicant produced no evidence tending to show any need whatsoever for the transportation of mail or express. Accordingly, to the extent that authority is sought to transport mail and express, the application will be denied. Lastly, it is observed that, although protests were filed in this matter, no evidence was produced at hearing that would support a claim that the proposed service would endanger or impair the operations of existing carriers contrary to the public interest.

**THEREFORE, IT IS ORDERED:**

1. That At Once Delivery Service, Inc., trading as At Once Transportation Service is hereby conditionally granted, contingent upon timely compliance with the terms of this order, authority to transport passengers, together with their baggage, in charter operations between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 29-passengers or less (including the driver) and further restricted against transportation solely within the Commonwealth of Virginia.

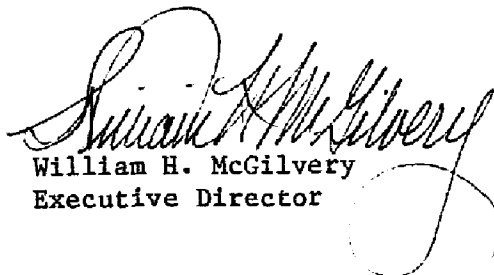
2. That in all other respects the application of At Once Delivery Service, Inc., trading as At Once Transportation Service is hereby denied.

3. That At Once Delivery Service, Inc., trading as At Once Transportation Service is hereby directed to file with the Commission within 30 days of the service date of this order the following: (a) three copies of its WMATC Tariff No. 1 amended to reflect applicant's amended application and testimony; (b) an equipment list specifying make, model, year, serial number, vehicle number, seating capacity, and license plate number (with jurisdiction) for each vehicle to be used in revenue operations; (c) evidence of ownership or a lease in conformance with Commission Regulation No. 69, as appropriate, for each vehicle to be used in revenue operations; (d) a certificate of insurance in accordance with Commission Regulation No. 62; and (e) an affidavit of identification of vehicles pursuant to Commission Regulation No. 67, for which purpose WMATC No. 168 has been assigned.

4. That unless At Once Delivery Service, Inc., trading as At Once Transportation Service complies with the requirements of the preceding paragraph within 30 days of the service date of this order or such additional time as the Commission may direct or allow, the grant of authority contained herein shall be void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

5. That upon compliance with the conditions set forth in the preceeding paragraphs, a certificate of public convenience and necessity will be issued to At Once Delivery Service, Inc., trading as At Once Transportation Service in the form and as worded in the Appendix to this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:

  
William H. McGilvery  
Executive Director

NO. 168

AT ONCE DELIVERY SERVICE, INC.

Trading as AT ONCE TRANSPORTATION SERVICE

By Order No. 3514 of the Washington Metropolitan Area Transit Commission issued June 8, 1990;

AFTER DUE INVESTIGATION, it appearing that the above-named carrier is entitled to receive authority from this Commission to engage in the transportation of passengers within the Washington Metropolitan Area Transit District as a carrier, for the reasons and subject to the limitations set forth in Order No. 3514;

THEREFORE, IT IS ORDERED that the said carrier is hereby granted this certificate of public convenience and necessity as evidence of the authority of the holder thereof to engage in transportation as a carrier by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privilege granted to the said carrier.

IT IS FURTHER ORDERED that the transportation service to be performed by the said carrier shall be as specified below:

IRREGULAR ROUTES

CHARTER OPERATIONS transporting passengers, together with their baggage, between points in the Metropolitan District,

RESTRICTED against transportation solely within the Commonwealth of Virginia and further restricted to transportation of passengers in vehicles that have a manufacturer's designed seating capacity of 29 passengers or less (including the driver).

AND IT IS FURTHER ORDERED and made a condition of this certificate that the holder thereof shall render reasonable, continuous, and adequate service to the public in pursuance of the authority granted herein, and that failure to do so shall constitute sufficient grounds for suspension, change, or revocation of the certificate.